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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/663,543

09/17/2003

Matthew Guttman

P-4004-1

3818

7590

06/10/2004

MYRON AMER, P.C.

Suite 310

114 Old Country Road

Mineola, NY 11501

EXAMINER

SUHOL, DMITRY

ART UNIT

PAPER NUMBER

3712

DATE MAILED: 06/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/663,543

Applicant(s)

GUTTMAN, MATTHEW

Examiner

Dmitry Suhol

Art Unit

3712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1 (subset D), the structural features encompassed by the phrase "first selected operative positions of said

Regarding claim 1 (subset E), the structural features encompassed beginning with, "...five first cooperating interconnecting of means respectively attached to free ends of said straps..." and ending with "...said second group of at least five straps..." can't be determined. It further appears that the above limitation(s) is/are directed to a method step(s) in a product type claim and have therefore been given little patentable weight. Furthermore, there is no antecedent basis for "said two interconnected straps".

Regarding claim 1 (subset G), the structural features encompassed beginning with, "...subsequent five second cooperating..." and ending with "...said second group of at least five straps" can't be determined. It further appears that the above limitation(s) is/are directed to a method step(s) in a product type claim and have therefore been given little patentable weight. Lastly, there is no antecedent basis for "said first and second board locations".

The remainder of the action considers the claims as best understood.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Peat '623 in view of Krull '687. Peat discloses an educational device containing most of the elements of the claims, including a rectangular game board (panels 21, 22, 24, 26 and 28 shown in figure 1), a first group of at least five straps (tabs on respective right sides of panels 22, 24, 26 and 28) and a second group of at least five straps (tabs on respective left sides of panels 22, 24, 26 and 28) with the tabs of the first group matching the tabs of the second group through a variety of interconnecting means attached to free ends of the straps (figures 11-14) where the interconnecting means comprise male and female connections. A first selected operative position of a first group of at least five straps at first selected location is read onto positions and locations shown in figure 2 where the unattached position is considered to be a first selected position and the location is the location of the straps in the open position. Second selected locations in replacement of the first selected locations is read onto the

locations shown in figure 1 where the second location is considered to be the location of the straps in the closed position.

Peat fails to teach a color associated with his straps, however Krull discloses an educational device which teaches that it is known to provide a variety of tabs associated with a variety of cognitive features including color where the color is associated with a connection/fastener type (col. 4, lines 33-35). Therefore it would have been obvious to one having ordinary skill in the art at the time of the claimed invention to have provided the tabs of Peat with color for the purpose of providing an educational toy that teaches color recognition by associating certain colors with certain fastening methods.

### ***Response to Arguments***

Applicant's arguments filed March 22, 2004 have been fully considered but they are not persuasive. Applicants argue that the Peat reference teaches straps whose locations can not be changed to implement paragraph F of claim 1. In response, the examiner respectfully points out that applicants paragraph F appears to claim a second location of sorts, in which case the limitation is met by the different location of the straps as shown in figures 1 and 2 of Peat, and as stated above. Examiner further points out that movable straps and means for connecting the straps to the game board have not been claimed by the applicants, but rather applicants are merely claiming a variety of locations.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

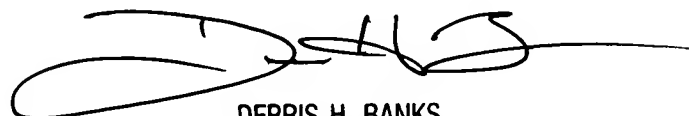
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dmitry Suhol whose telephone number is 703-305-0085. The examiner can normally be reached on Mon - Friday 9am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on 703-308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ds

A handwritten signature in black ink, appearing to read 'D. Banks', with a long horizontal line extending to the right.

DERRIS H. BANKS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700